

## REMARKS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-14 are presently pending in this application, Claims 9 and 10 having been withdrawn from further consideration by the Examiner, Claim 15 having been canceled and Claim 11 having been amended by the present amendment.

In the outstanding Office Action, Claims 11, 12 and 15 were rejected under 35 U.S.C. §112, second paragraph, for being indefinite; Claims 1-8 and 11-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over McGuire et al. (U.S. Patent 6,254,965 B1) in view of Japanese Patent No. 404154573A (hereinafter "JP '573") and Akahori et al. (U.S. Patent 5,310,587).

With regard to the rejection under 35 U.S.C. §112, second paragraph, Claim 15 has been canceled, and Claim 11 has been amended to clarify the subject matter recited therein. Thus, Claims 11 and 12 are believed to be in compliance with the requirements of the statute. If, however, the Examiner disagrees, the Examiner is invited to telephone the undersigned who will be happy to work in a joint effort to derive mutually satisfactory claim language.

Briefly, Claim 1 of the present invention is directed to a kitchen sheet including a base sheet made of a fiber aggregate having an air permeability of 5 cc/cm<sup>2</sup>/sec or more as measured in accordance with JIS L1096A, the base sheet having a plurality of convex portions giving the kitchen sheet an apparent thickness of 1.0 mm or greater, and a compressive recovery of 30% or more. By providing such convex portions on a base sheet, the kitchen sheet not only supports food upon the convex portions but also provides passageways sufficiently large to vent water vapor more efficiently and effectively, thereby

reducing the surface area in contact with the food and preventing undesirable condensation on the kitchen sheet.<sup>1</sup>

The outstanding Office Action asserts that although McGuire et al. fail to disclose convex portions giving the kitchen sheet an apparent thickness of 1.0 mm or greater, “it would have been obvious ... to increase the thickness of McGuire’s material ....” Nonetheless, MPEP establishes that “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious,”<sup>2</sup> and that discovering source/cause of a problem is part of “as a whole” inquiry “which should always be considered in determining the obviousness of an invention under 35 U.S.C. § 103.”<sup>3</sup> Although a kitchen sheet can be shaped or sized in countless ways, Applicants discovered, as stated in Applicants’ specification, that if the apparent thickness is smaller than 1.0 mm, the passageways formed by the convex portions would be too small to effectively vent water vapor generated from food being heated and thus cause undesirable condensation on the kitchen sheet during the heating. Furthermore, because the sheet has a specific compressive recovery, i.e., a compressive recovery of 30% or more, the convex portions are less likely to collapse due to food weight, securing the passageways between the convex portions. Therefore, to assert that the proposed modification of McGuire et al. would only involve a mere change in the size motivated by the desire to increase absorbent capabilities and protection disregards the “as a whole” requirement in MPEP and still fails to

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<sup>1</sup> Specification, page 12, lines 1-23.

<sup>2</sup> MPEP 2141.02 citing *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

<sup>3</sup> *Id.* citing *In re Sponnoble*, 405 F.2d 578, 585, 160 USPQ 237, 243 (CCPA 1969).

provide substantial evidence of motivation to modify the McGuire et al. sheet to meet the subject matter recited in Claim 1.<sup>4</sup> It is thus respectfully submitted that the modification of McGuire et al. proposed by the Office Action is believed to be guided by an impermissible hindsight based on Applicants' disclosure, and that the structure recited in Claim 1 is believed to be distinguishable from McGuire et al.

As discussed in the previous response, JP '573 and Akahori et al. disclose a packaged body for food and a wrapping for food, respectively. However, neither JP '573 nor Akahori et al. teach a base sheet having a plurality of convex portions giving the kitchen sheet an apparent thickness of 1.0 mm or greater, and a compressive recovery of 30% or more, as recited in Claim 1. Instead, JP '573 only discloses a perforated, e.g., pierced, slit, or incised, hydrophobic sheet. Therefore, the structure recited in Claim 1 is clearly distinguishable from JP '573 and Akahori et al.

Because none of McGuire et al., JP '573 and Akahori et al. discloses the base sheet as recited in Claim 1, even the combined teachings of these applied references would not render the structure recited in Claim 1 obvious.

For the foregoing reasons, Claim 1 is believed to be allowable. Furthermore, since Claims 2-8 and 11-15 ultimately depend from Claim, substantially the same arguments set forth above also apply to these dependent claims. Hence, Claims 2-8 and 11-15 are believed to be allowable as well.

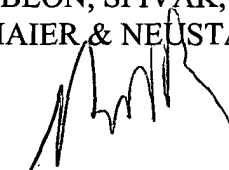
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<sup>4</sup> See *In re Gartside*, 53 USPQ2d 1769 (CAFC 2000).

In view of the amendments and discussions presented above, Applicants respectfully submit that the present application is in condition for allowance, and an early action favorable to that effect is earnestly solicited.

Respectfully submitted,

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**IN THE CLAIMS**

Please cancel Claim 15 without prejudice and amend Claim 11 as follows:

--11. (Amended) A kitchen sheet according to claim 6, wherein the at least two layers further comprise at least one of a first inner layer including a nonwoven fabric [and configured] comprising at least one of [absorb] water absorbing fibers and oil absorbing fibers and a second inner layer including a nonwoven fabric comprising an ultrafine hydrophobic fiber.

15. (Canceled)--